

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MONTANA
REQUEST FOR SUMMONS AND MODIFICATION OF THE CONDITIONS OR TERM
OF SUPERVISION

Name of Offender: Holden Ray Stillsmoking

Docket Number: 0977 4:18CR00102-001

Name of Sentencing Judicial Officer:

THE HONORABLE BRIAN MORRIS
CHIEF UNITED STATES DISTRICT JUDGE

Date of Original Sentence: 09/04/2019

Original Offense: 18:113B.F: ASSAULT WITH INTENT TO COMMIT FELONY (MARITIME);
18:1153.F: OFFENSES COMMITTED WITHIN INDIAN COUNTRY

Original Sentence: 21 months custody, 36 months supervised release

Type of Supervision: Supervised Release

Date Supervision Commenced: 07/17/2020

PETITIONING THE COURT

The defendant was willing to waive his right to a hearing on 09/16/2020, even though he had hired Thane Johnson as private counsel. On 09/23/2020, this officer contacted Mr. Johnson regarding a modification of the defendant's conditions. He requested this officer have the Court appoint counsel. Since the defendant did not consult an attorney, the probation officer requests a Summons be issued and a hearing held to modify the original Judgment as follows:

Modified

Condition

Condition Description

1

You must comply with alcohol testing, for a period of 90 days, using a remote alcohol testing device, as directed by the probation office. You must comply with all program requirements and must contribute towards the costs of the services, to the extent you are financially able to do so, as determined by the probation office.

**** CAUSE ****

On 09/04/2019, the defendant appeared for sentencing before THE HONORABLE BRIAN MORRIS, CHIEF UNITED STATES DISTRICT JUDGE, having pleaded guilty to the offenses of 18:113B.F: ASSAULT WITH INTENT TO COMMIT FELONY (MARITIME) and 18:1153.F: OFFENSES COMMITTED WITHIN INDIAN COUNTRY. The offense involved the defendant, while intoxicated, strangling Kacilyn Sinclair and Ashlie Calfbossribs after a verbal altercation. He was sentenced to 21 months custody, followed by 36 months supervised release. The defendant began the original term of supervised release on 07/17/2020.

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Since that time, the probation officer believes the offender has violated the following conditions of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1	<p>Special condition: You must abstain from the consumption of alcohol and are prohibited from entering establishments where alcohol is the primary item of sale.</p> <p>On 08/28/2020, this officer approved the defendant to work in California as a wildlife firefighter with a crew from Browning, Montana. He was approved to leave the following morning for 14 days.</p> <p>On 08/29/2020, a law enforcement officer called this officer, reporting he had just dropped off the defendant at Town Pump in Helena, Montana. He reported the driver had been arrested for DUI (M), and the defendant submitted a BAC of .2. The defendant admitted to consuming six beers.</p>
2	<p>Standard condition: You must answer truthfully the questions asked by your probation officer.</p> <p>On 09/13/2020, the defendant reported for urinalysis (UA) testing, and this officer stood outside the door. When he completed his UA, he opened the door and set down his UA cup. This officer observed the defendant's hands visibly shaking, and the defendant would not make eye contact with this officer. The defendant's UA was negative, so this officer brought him to her office.</p> <p>The defendant's hands continued to shake, and he was visibly nervous. This officer looked down at his jean pocket, which was bulging. This officer told the defendant to empty his pockets, and he pulled out multiple items, including a small container for contact solution with white cloth and duct tape around the cloth. This officer took the container, which was warm to the touch. This officer asked the defendant if he had altered his UA, and he reported he had.</p>
3	<p>Special condition: You must abstain from the consumption of alcohol and are prohibited from entering establishments where alcohol is the primary item of sale.</p> <p>On 9/13/2020, the defendant submitted a positive urinalysis for ETG. He admitted to consuming a six-pack of Shock Top beer on 09/11/2020.</p>

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- 4 **Mandatory condition:** You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant admitted to consuming two Wellbutrin pills on 09/03/2020. He did not have a prescription for this medication.

U.S. Probation Officer Recommendation:


The defendant was released from custody in July 2020. Since then, he has committed three instances of noncompliance as outlined above. This officer believes the defendant would benefit from the Soberlink device to ensure his sobriety while he works on thinking errors and establishes a relapse prevention plan with his counselor. Having the defendant breathalyze twice a day will also give this officer the assurance he is remaining sober. The defendant committed the underlying offense while intoxicated, and this officer is concerned he might put the community at risk if he consumes alcohol. He agrees with this modification, but because he had private counsel during the pretrial stages, he does not currently have an attorney. This officer recommends a summons be issued and the Court appoint a federal defender for the defendant to address the modification above.

AFFIDAVIT AND PETITION PRAYING THAT THE COURT WILL ORDER A SUMMONS BE ISSUED

In conformance with the provision of 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge. Based on the information presented, I am petitioning the Court to issue a summons.


Reviewed

By: _____


Raymond Antonsen
Supervising United States Probation
Officer
Date: 09/24/2020

Respectfully Submitted

By: _____


Jessica Heim
United States Probation Officer
Date: 09/24/2020

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ORDER OF COURT

I find there is probable cause to believe that the action requested above is necessary, supported by the above affirmation given under penalty of perjury. The Court orders the issuance of a summons. Considered and ordered this 24th day of September, 2020 and ordered filed and made a part of the records in the above case.



Brian Morris

Chief United States District Judge

9/24/2020

Date

PROB 49
Rev 2-15

Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MONTANA

Name of Offender: Tyrell Lee Balibardin

Docket Number: 0977 4:13CR00095-001

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By *assistance of counsel*, I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

Modified
Condition

Condition Description

1

Radio Frequency (RF) Monitoring will be used to monitor your movements for a period of 180 days. You must abide by all technology requirements. You must pay part or all of the costs of this monitoring as directed by the probation office. This form of location monitoring technology shall be utilized to monitor the following restriction on your movement in the community as well as other Court-imposed conditions of release:

You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; Court-ordered obligations; or other activities as pre-approved in writing by the probation office.

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- 2 You may own or possess only one device that has access to online services as approved by the probation office. If that device is not a phone, you may also possess one mobile phone that has no online capability or camera. You must obtain the approval of the probation office prior to using any device. You must not own, possess, or use any additional devices without the prior written approval of the probation office. Your approved devices must be capable of being monitored and compatible with monitoring hardware, software, or other technology approved by the probation office. You must allow the probation office to make unannounced examinations of all computer, hardware, and software, which may include the retrieval and copying of all data from your computer. You must allow the probation office to install software to restrict or monitor your computer access. You must pay part or all of the costs of this monitoring as directed by the probation office.
- 3 You must surrender to a facility, as directed and approved by the U.S. Probation Office and presiding judge, to participate in the Confined Treatment Alternative Program, for a period of time to be determined by the probation office and presiding judge, not to exceed 96 consecutive hours.

Witness: _____

Signed: _____

U.S. Probation Officer

Probationer or Supervised Releasee

Date: _____

Date: _____

Add Defense Attorney Signature Block?